

VZCZCXRO6971
OO RUEHROV
DE RUEHDS #2137/01 1901601
ZNY CCCCC ZZH
O 091601Z JUL 07
FM AMEMBASSY ADDIS ABABA
TO RUEHC/SECSTATE WASHDC IMMEDIATE 6904
INFO RUCNIAD/IGAD COLLECTIVE PRIORITY
RUEAIIA/CIA WASHINGTON DC PRIORITY
RHMFISS/CJTF HOA PRIORITY
RUEKDIA/DIA WASHINGTON DC PRIORITY
RHEHNSC/NSC WASHDC PRIORITY
RHMFISS/HQ USCENTCOM MACDILL AFB FL PRIORITY
RUEHLMC/MILLENNIUM CHALLENGE CORP WASHINGTON DC PRIORITY 0041

C O N F I D E N T I A L SECTION 01 OF 02 ADDIS ABABA 002137

SIPDIS

SIPDIS

DEPARTMENT FOR AF/E AND DRL: S.JOSEPH
LONDON, PARIS, ROME FOR AFRICA WATCHER
CJTF-HOA AND USCENTCOM FOR POLAD

E.O. 12958: DECL: 07/09/2017
TAGS: [PHUM](#) [KJUS](#) [KDEM](#) [PGOV](#) [ET](#)
SUBJECT: ETHIOPIA: PROSECUTION RECOMMENDS DEATH PENALTY FOR
CONVICTED CUD LEADERSHIP

REF: ADDIS ABABA 02005 AND PREVIOUS

ADDIS ABAB 00002137 001.2 OF 002

Classified By: SEAN CELY, ACTING POL-ECON COUNSELOR. REASON: 1.4 (d).

11. (C) SUMMARY. On July 9, the prosecution recommended the death penalty for the 38 opposition Coalition for Unity and Democracy (CUD) leaders and journalists found guilty on June 11 on charges of subversion. However, final sentencing has been postponed until July 16. Meanwhile, the negotiation process led by the Ethiopian Elders continues. All defendants, except for two civil society representatives, have signed a private letter expressing regret for their actions following the May 2005 elections. Once the judicial process concludes next week for the convicted defendants, all those who have signed this letter are expected to be released. Elders continue their discussions with senior GoE leadership and the detainees in preparation for eventual release. END SUMMARY.

HARSHEST SENTENCES SOUGHT, BUT DEFENDANTS NOT MOVED

12. (U) All 38 defendants previously found guilty were present for the July 9 session. Those nine defendants still defending themselves were not in court. Only one defense attorney attended: Wondawik Ayele, who represents nine of the 38 convicted, as well as six of those still defending themselves. Defense attorney Colonel Mengistu, who represents civil society representatives Daniel Bekele and Netsanet Demissie, did not attend.

13. (U) Lead judge Adil Ahmed began by saying that the purpose of the session was to hear statements from both the prosecution and the defense, and then for the bench to give their final sentencing. He reported that both the prosecution and the nine defendants represented by Wondawik had submitted their final recommendations on sentencing. However, some defendants (he did not specify who) requested to hear the prosecution's recommendation before filing their own statement(s). Therefore, Adil announced, only the prosecution would be heard today, and the defense would then have an opportunity to respond in writing, to be submitted to the court registrar.

¶4. (U) The prosecution's statement began by recapping the charges, referring to applicable articles in the criminal code, and stating the allowable sentences under the specific charges. On Charge 1 (Outrages Against the Constitution: penalty 3-25 years or "when the crime has entailed serious crises against public security) life imprisonment or the death penalty"), the prosecutor stated the following: "The defendants' act of outrage against the constitution threatened to disintegrate the nation. As of result of their actions, the violence that broke out caused the loss of many lives and a great deal of property damage. If the government had not taken action, the situation could have been much worse. This criminal act caused a serious social crisis. They called for these actions at a time when the government had instituted a ban on demonstrations. This was a terrorist act on their part. Therefore, by the guidelines of article 258 of the criminal code (Aggravation to a Crime), the defendants charged under charge 1 should receive the death penalty." (Note: All 38 defendants were convicted under charge 1. End Note.) The prosecutor also recommended that publishing houses that were found guilty on charge 1 should face the maximum penalty: a 500,000 birr fine (approximately USD 50,000).

¶5. (U) Regarding the remaining charges (Charge 2) "Obstruction of the Exercise of Constitutional Powers, : penalty: up to 15 years; Charge 3 - "Inciting, Organizing or leading an Armed Rebellion," penalty: life imprisonment or death; Charge 5) "Impairing the Defensive Powers of the State," penalty: 5-25 years, or "in cases of exceptional gravity) life imprisonment or the death penalty") the prosecution recommended the maximum penalty. Though he did not specifically state the reason for such a recommendation, he said that for charges 3 and 5, the defendants should receive the death penalty.

ADDIS ABAB 00002137 002.2 OF 002

¶6. (U) The prosecution finished the 10-minute statement by recommending that the defendants also be subject to article 123 of the criminal code, Deprivation of Rights, which states that in certain circumstances, the civil rights of a defendant (including the right to run for public office) can be limited by decision of the court.

¶7. (SBU) Lead judge Adil then announced that the defendants would have until July 11 to complete their statement(s). He then adjourned until July 16. Though the prosecution's recommendation had been widely rumored before the session, family members were visibly upset after the ruling, while defendants seemed unfazed. Many defendants were attempting to calm their friends and family as they left the courtroom.

DESPITE RECOMMENDATION, ELDERS' PROCESS CONTINUES

¶8. (C) COMMENT. The July 9 session produced the anticipated result from the prosecution--a recommendation for the death penalty. However, this was not followed immediately by a response from the defense, nor by a judgment from the bench, as was expected. Instead, because some defendants requested time to contemplate a response after the prosecution's statement, the court adjourned for another week. The prosecution's recommendation, and lack of immediate response from the court, will undoubtedly fuel further speculation and rumors on the direction of the trial. However, the Elders continue to work around the clock to finalize details on the detainees' release, and Post remains hopeful that a resolution will be achieved. Any highly critical statements in the media or by the international community will only serve to undo what they have accomplished over the last several months. Post recommends that public statements adhere to agreed upon guidance. END COMMENT.
YAMAMOTO